

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

January 27, 2021

1:32 p.m.

MEMBERS PRESENT

Senator Lora Reinbold, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present.

OTHER LEGISLATORS PRESENT

Representative Sarah Vance
Senator Roger Holland

COMMITTEE CALENDAR

OVERVIEW: EMERGENCY DISASTER DECLARATION EXTENSION BY DEPARTMENT
OF LAW AND DEPARTMENT OF HEALTH & SOCIAL SERVICES

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record.

WITNESS REGISTER

MARTIN KULLDORFF, PhD, Professor
Department of Medicine
Harvard Medical School and Brigham and Women's Hospital
Harvard University
Boston, Massachusetts

POSITION STATEMENT: Testified during the overview on Emergency
Disaster Declaration Extension.

ADAM CRUM, Commissioner
Office of the Commissioner

Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Presented a PowerPoint on the State of Alaska Response to COVID-19.

ACTION NARRATIVE

1:32:23 PM

CHAIR LORA REINBOLD called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Shower, Myers, Kiehl, Hughes, and Chair Reinbold.

1:34:08

CHAIR REINBOLD made opening remarks. She referenced the jurisdiction of the Senate Judiciary Standing Committee on page 8 of the Alaska State Legislature Uniform Rules. Rule 20, Standing Committees states, "Judiciary (the programs and activities of the Alaska Court System and the Department of Law, and the legal and substantive review of bills referred to it for that purpose."

CHAIR REINBOLD also referenced the US Constitution and read the oath of office in Article 12, Section 5, of the Constitution of the State of Alaska, which all State Legislatures Senators and Representatives must take, as follows:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as . . . to the best of my ability."

CHAIR REINBOLD pointed out it is important to note that is the supreme law of the land. She stated that the ongoing disaster declarations raise serious legal concerns. Eight of the DHSS's health mandates currently in place raise constitutional concerns. Since the Department of Law approved these mandates, the Senate Judiciary Standing Committee is the appropriate committee to review the mandates.

1:35:58

CHAIR REINBOLD read other provisions in the Constitution of the State of Alaska in Article 1, Declaration of Rights as part of her opening remarks, as follows:

Section 1. Inherent Rights:

This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

Section 2. Source of Government:

All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

Section 3. Civil Rights:

No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. The legislature shall implement this section. *[Amended 1972]*

Section 4. Freedom of Religion:

No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof.

Section 5. Freedom of Speech:

Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

Section 6. Assembly; Petition:

The right of the people peaceably to assemble, and to petition the government shall never be abridged.

Section 7. Due Process:

No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of

legislative and executive investigations shall not be infringed.

Section 9. Jeopardy and Self Incrimination:

No person shall be put in jeopardy twice for the same offense. No person shall be compelled in any criminal proceeding to be a witness against himself.

Section 14. Searches and Seizures,
The right of the people to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. No warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Section 22. Right of Privacy. The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section. [Amended 1972].

CHAIR REINBOLD informed members that she requested several administration members to testify today, but these staff were not approved to attend. Instead, the committee's focus today would consider lockdowns for school closures, the elderly, and the state's most vulnerable populations, she said.

OVERVIEW: Emergency Disaster Declaration Extension by Department of Law and Department of Health & Social Services

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CHAIR REINBOLD announced consideration of the Overview: Emergency Disaster Declaration Extension by the Department of Law and Department of Health & Social Services.

She recognized Representative Vance joined the meeting.

CHAIR REINBOLD reviewed the committee packet, turned to the presenters, beginning with Dr. Kulldorff. She said he co-authored the Great Barrington Declaration, which has been translated into 43 languages. It has been read by 727,145 concerned citizens, 13,290 medical and public health scientists, and over 40,000 practitioners.

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MARTIN KULLDORFF, PhD, Professor, Department of Medicine, Harvard Medical School and Brigham and Women's Hospital, Harvard University, Boston, MA, introduced himself. He said he is also a biostatistician and epidemiologist. He has worked on infectious disease outbreaks for several decades. Initially the approach taken to address the pandemic was very stunning to him and many of his colleagues. The key feature of COVID-19 is that the risk of mortality and hospitalization is dramatically different for elders and the youngest, a thousand-fold. While it is more serious for elders than the annual influenza, COVID-19 is less dangerous for children. It should be clear by now that COVID-19 lockdowns for the whole population do not work. It has not worked to control it, but it pushed the problem forward in time.

He explained that lockdown did not put in measures to protect the vulnerable elderly. He co-authored the Great Barrington Declaration to urge policy makers to do a much better job protecting older high-risk people by using basic health principles but allow children and young adults to live nearly normal lives. Children and adults should still wash their hands and stay home when ill.

[1:45:10 PM](#)

DR. KULLDORFF said closing schools, reducing medical appointments, and instituting lockdowns, has had enormous negative collateral damage on other aspects of public health.

DR. KULLDORFF explained that health must be considered in its entirety. He provided examples of collateral damage due to lockdowns, including that childhood immunization rates plummeted, cancer screening and treatment diminished, cardiovascular diseases worsened, resulting in enormous mental health consequences.

DR. KULLDORFF said he did not see any benefit to closing schools in terms of COVID-19.

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DR. KULLDORFF reported that in early October, he, Dr. Jay Bhattacharya, a Stanford University Medical School professor, and an Oxford professor Dr. Sunetra Gupta, an epidemiologist, issued the declaration for focused protection as an alternative to the lockdowns. He related that all three have worked on infectious disease epidemiology for many years. He characterized this approach as not a novel approach from a public health perspective. Many people have advocated for this approach since March, he said. The declaration follows the plans that most

countries' pandemic preparedness plans used in previous years. This summarizes the Great Barrington Declaration, he said. He said lockdowns have never been tried before and by now it should be clear that these lockdowns represent the biggest public health fiasco ever.

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DR. KULLDORFF said he would expand on protecting the elderly. He suggested prioritizing vaccinations by age due to higher risk, especially in the nursing homes, which Alaska is doing. He recommended conducting more frequent testing in nursing homes for staff and visitors. He suggested those in their 60s should take a sabbatical when the virus transmission is up. Currently, affluent professionals are protected because they are able to work from home. Whereas the working class has experienced the burden because this group has had to work in person. Those infected generate immunity in the population that eventually protects everyone. The consequences on public health have been severest for the working class, the elderly, children, and the poor. The risks posed to children by the pandemic is less than of influenza. Each year 200 - 1,000 children die from influenza. In 2020, less than 200 children in the US died from COVID-19. By reviewing Sweden's experience during periods of significant transmission in the spring, schools and daycares were kept open affecting ages 1-15. He reported that 1.8 million children attended school but none died from COVID-19, although a few children were hospitalized. He concluded that shows that even when in-person schools are open, COVID-19 does not pose dangers to children.

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DR. KULLDORFF said when schools are closed, children suffer from a lack of education and physical health, mental health, and social development without any reason to do so.

He related that teachers in Sweden were at less risk than other professionals even though their schools were kept open. He concluded that if schools were a major transmitter of the virus, these teachers should have been at higher risk. He suggested that teachers in their 60s are at a somewhat higher risk, he suggested that those older teachers could work remotely online or by assisting other teachers. He reiterated that younger teachers could teach in person. That summarizes the philosophy of the Great Barrington Declaration. This proposal has been reviewed by numerous providers and over 10,000 public health and medical scientists, 40,000 medical practitioners, and 700,000 have signed in support. This is not a fringe view, he said. It

has not been widely publicized, but his colleagues support this type of focused protection rather than lockdown approach.

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SENATOR KIEHL recalled that Dr. Kulldorff said lockdowns have not worked to control this pandemic. He asked whether the epidemic curve did not flatten due to the imposed lockdown restrictions. He further asked if the state would have had the same virus spread without them.

DR. KULLDORFF answered yes and no. He explained that lockdowns could flatten the curve, reducing peak hospitalizations per week, but it does not prevent people from being infected. It just postponed the infections to the future. He reiterated that it is very clear the lockdowns have not protected people. People thought that lockdowns would protect everyone, but it has not been the case. With this type of pandemic, thinking that it could be magically suppressed is unrealistic from a public health point of view. The key is to protect those at a higher risk, such as older people. The US suffered enormous mortality, about 400,000, of which the vast majority are older people. Due to a lack of testing and too much staff rotation, nursing homes became infected. He said he has observed older people taking risks by shopping at the supermarket instead of having their groceries delivered. However, it is okay for those 30 years of age to go to stores because this is a low-risk group.

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SENATOR KIEHL asked him to compare the list of the total harms from lockdowns, including mental health crisis, suicide attempts, worse cardiac outcomes, and mental health problems, to the total harms to society from COVID-19.

DR. KULLDORFF answered that while some data is available, it is incomplete. It will take several years to identify the total collateral damage. For example, if someone missed their cervical cancer screening, the person might die four years from now instead of living another 15-20 years. He reported that until October and November 2020, about 4 percent of the deaths in the 25-45 age group were due to COVID-19. At the same time, this age group experienced 25 percent excess deaths compared to previous years. He was unsure how many of those deaths were due to cardiovascular and other non-COVID-19 issues, but most of these deaths were not due to COVID-19. He suggested these deaths were affected by other things, such as the lockdowns or people's fear about seeking medical care during the pandemic.

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SENATOR HUGHES said the committee was interested in the impacts. She noted she discovered the Great Barrington Declaration was named after a location in Massachusetts. She said she found that some people on the internet accused some signers of being "fake signers." She said the packet materials also listed some questionable signers. She asked him to address the legitimate signers.

DR. KULLDORFF reported that less than one percent were "fake." He acknowledged that some pranksters signed under fake names, which were removed.

SENATOR HUGHES said some notable fake names were Professor Sponge Bob Square Pants, Professor Ware, The Mask and Dr. Person Fake Name. However, there were many legitimate signers, she said.

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DR. KULLDORFF said the Great Barrington Declaration has an FAQ that has listed some of the more humorous ones.

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CHAIR REINBOLD reiterated the figures and categories of signatures of those who signed in support of the declaration. She indicated that these figures will be posted to Senate Judiciary Committee documents on BASIS.

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SENATOR SHOWER stated he read Dr. Kulldorff's report, including how decisions were made to implement lockdowns or other mandates. He said those decisions drive the policies, which can have a huge impact. For example, while over two million people have died from COVID-19 worldwide, the United Nations predicts that 130 million will starve due to COVID-19 lockdowns. He stressed the importance of striving to provide a balance when developing policies. Last year, [the epidemiologists] expressed concern that the death toll in Alaska could reach 20,000 by the middle of April, yet only nine deaths occurred. He asked if the COVID-19 policies were developed out of fear or bad science, and if the science has improved as more is known about COVID-19. He further asked how to achieve the best policy balance to address COVID-19 to reduce harm.

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DR. KULLDORFF answered that as a public health scientist, he was absolutely stunned in March 2020 to learn that lockdowns were

being established. He said he understood that it was to flatten the curve but trying to suppress this pandemic is completely unrealistic.

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DR. KULLDORFF offered his view that it did not make sense from a public health perspective, nor did it follow traditional principles of health used for decades. First, it's important to look at all diseases, not just on COVID-19. Second, the long term outcomes must be considered, not just the short term. Third, it's important to consider the entire population, including the poor and those in developing countries who were potentially facing 130,000 deaths. It has been detrimental to those in Africa and Latin America. He was unsure of the reasons for the lockdown policies. He said public health officials could not get their views opposing lockdowns heard. As a native of Sweden, he published his alternative approach to lockdowns in Sweden in March. Still, the media was not interested until the late summer and early fall, when he published information in the Wall Street Journal and other publications.

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SENATOR SHOWER asked if the state should consider adjusting policies, such as ending lockdowns and other mandates based on the data.

DR. KULLDORFF answered yes.

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SENATOR HUGHES noticed his resume highlighted his specialty is in real-time post-market drug and vaccine safety surveillance. She wondered if he was monitoring the vaccine distribution and if he will be reporting on it.

DR. KULLDORFF answered that he serves on the [Center for Disease Control and Prevention (CDC)] Vaccine Safety Working Group Advisory committee on COVID-19. That committee reports to the CDC.

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SENATOR KIEHL said the issue of focused protection is something Alaska has tried to accomplish, including protecting those in the Pioneer Homes and [assisted living homes providing] elder care. He asked who has done it right. He stated that it has not been very successful in most places he has seen. He asked for the model to use in situations where community spread has increased and what will effectively protect them.

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DR. KULLDORFF answered that now that the US has vaccines, it is important to vaccinate nursing home staff and to institute daily testing of staff and visitors. He acknowledged the importance of family and friends visiting the elderly, but these visitors must be tested. It can be done through an antigen test that can be administered the same morning. He suggested minimizing staff rotations so the same nursing home staff do not work in multiple nursing homes or in different sections of the nursing home. He characterized these measures as the traditional standard of public health measures needed to protect the elderly. This has been done in some places, but not all. He said it could have been done and should have been done.

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CHAIR REINBOLD thanked him for exposing the grave concerns about the damaging physical and mental health impact of the prevailing COVID-19 policies. She noted that Anchorage has been on lockdown but it is slowly opening up. She agreed that the problem needs to be viewed holistically. She read from [page 1] of the Great Barrington Declaration, "As immunity builds in the population, the risk of infection to all - including the vulnerable - falls."

CHAIR REINBOLD paraphrased the following two paragraphs, which read:

We know that all populations will eventually reach herd immunity - i.e. the point at which the rate of new infections is stable - and that this can be assisted by (but is not dependent upon) a vaccine. Our goal should therefore be to minimize mortality and social harm until we reach herd immunity.

The most compassionate approach that balances the risks and benefits of reaching herd immunity, is to allow those who are at minimal risk of death to live their lives normally to build up immunity to the virus through natural infection, while better protecting those who are at highest risk. We call this Focused Protection.

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CHAIR REINBOLD recognized Senator Holland joined the meeting. She listed participants who were online.

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CHAIR REINBOLD highlighted some of the mandates imposed by the Department of Health and Social Services and the adverse effects on residents:

Date Issued Mandate Description

3/13/2020 001 Visitation at State Institutes, Non-Contact Student Days at Schools.

3/16/2020 002 State Libraries, Archives, Museums & Residential Schools

3/17/2020 003 Statewide Closure Restaurants, Bars, Entertainment

3/17/2020 004 Travel

3/19/2020 005 Elective Medical Procedures

3/19/2020 006 Elective Oral Health Procedures

3/20/2020 007 Fairbanks North Star Borough & Ketchikan Gateway Borough - Personal Care Services and Gatherings

3/20/2020 008 Public and Private Schools

3/23/2020 009 Personal Care Services and Gatherings

3/23/2020 010 International and Interstate Travel - Order for Self-Quarantine

3/27/2020 011 Social Distancing

3/27/2020 012 Intrastate Travel - Limiting travel between communities to critical infrastructure or critical personal needs

4/9/2020 013 K-12 Public and Private Schools

4/13/2020 014 Non-congregate sheltering order

4/15/2020 015 Services by Health Care Providers

4/22/2020 016 Reopen Alaska Responsibly Plan - Phase 1-A

4/23/2020 017 Protective Measures for Independent
Commercial Fishing Vessels

5/11/2020 018 Intrastate Travel

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CHAIR REINBOLD briefly summarized the effects of some of the mandates. She said Mandate 1.1 limited visitation to the elderly and schools were closed for two weeks. Mandate 1.2 closed schools for two weeks. Mandate 2.2 closed residential schools and sent students home. Mandate 3 closed restaurants to dine in and were limited to five people. Gyms and entertainment businesses were also closed. This mandate was applied arbitrarily with some exemptions. Mandate 4 started the travel delays with 14 day quarantine upon return to the state.

CHAIR REINBOLD continued her summary. Mandate 5 postponed elective procedures for about three months, directing the health care of residents. Mandate 6 postponed oral procedures for a month. Mandate 7 required people in the Fairbanks North Star Borough and the Ketchikan Gateway Borough to socially distance by six feet. The mandate limited gatherings to less than 10 people, including churches, which impacted people's constitutional rights, she said.

She reported that Mandate 8, issued on March 20, 2020, closed public and private schools and all after school activities. She said this became a blueprint for some of the smaller [communities] to adopt some of these policies with the help of Governor Dunleavy. She said the attorney general drafted regulations for boroughs and local communities who felt they did not have jurisdiction in these areas.

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CHAIR REINBOLD said Mandate 9 expanded the effects of Mandate 8 across the state. This meant all individuals were required to stop working and traveling with some exclusions. She said this mandate had the effect of helping to shut down the economy. Mandate 10 allowed the commissioner to arbitrarily determine the essential and non-essential workers. She added that Mandate 5 imposed penalties for organizations and businesses of up to \$1,000 per violation and a class A misdemeanor. This provision allowed a business to be fined \$25,000 and up to a \$2.5 million fine if it resulted in death and up to \$500,000 and a class A misdemeanor if the action did not result in death. She said this gives the Senate Judiciary Committee jurisdiction, since it pertains to criminal law. She expressed concern that none of

these mandates and penalties were approved by the legislature but were imposed by the executive branch.

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CHAIR REINBOLD expressed concern that during the "hunker down" order, the department's questions and answers were troubling. For example, Question, "Can I visit my loved one in the hospital"? Answer: "No." Question: "Can I visit my significant other if I don't live in the same household?" Answer: "No."

CHAIR REINBOLD commented that marijuana shops were allowed to be open.

She recalled that Mandate 12 limited intrastate travel, which was prohibited except for critical infrastructure. She expressed concern that this mandate superseded any local government or tribal mandate restricting intrastate travel. Mandate 13 closed K-12 schools through December 2020 and prohibited graduation events. Mandate 14 related to non-congregate quarantines non-traditional people in dorms or hotels, such as the homeless. Mandate 15 allowed micromanagement of health care providers by requiring masking.

CHAIR REINBOLD said Mandate 16 raised the biggest alarm for her. This implemented the Reopen Alaska Responsibly Plan that went into effect on April 24, 2020. She said this provided a detailed blueprint to manage private sector businesses. It included a three-page detailed document of rules of how bars could reopen. Mandate 17 is related to commercial fishing vessels. Mandate 18 went into effect on May 12, 2020, relating to intrastate travel restrictions.

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CHAIR REINBOLD said 11 health alerts were also issued. She directed attention to health alert 11, which dictated how cars should be parked apart during a church service, how to put together an Easter basket, and how to wear face cloth coverings.

CHAIR REINBOLD reported that on March 11, 2020, when the disaster declaration was first declared, Alaska did not yet have any cases, yet the mandates were issued without legislative input. She characterized it as a severe separation of powers issue. It reinforces why this is the proper committee to address these issues. She informed members that she plans to introduce a separation of powers bill to discuss disaster declarations. She said she hoped that the Department of Law (DOL) would come

before the committee to discuss the three extensions beyond Senate Bill 241.

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CHAIR REINBOLD stated that a memo from Legislative Legal Affairs Director Meghan Wallace will be posted on the Senate Judiciary Committee documents on BASIS. She said she has invited Attorney General Ed Sniffen to come before the committee, but she was denied that today. However, she will ask questions at his confirmation hearing if he cannot come before the committee until then.

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CHAIR REINBOLD reconvened the meeting. She said the health alerts and mandates will be posted on the Senate Judiciary Committee documents on BASIS.

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ADAM CRUM, Commissioner, Department of Health and Social Services (DHSS), Juneau, Alaska, said on January 25, 2020, he received a call from the US regional administrator of the Administration of Children and Families. She asked if the state was willing to accept a flight from Luhan, China, for American citizens' repatriation. That led to him calling Heide Hedberg, Director of the Division of Public Health and Anne Zink, Chief Medical Officer to determine if it was necessary to kick off the Department of Health and Social Services (DHSS) Emergency Operating Committee.

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COMMISSIONER CRUM reviewed the initial state's response to COVID-19 [slide 2]. On January 27, 2020, the state activated the DHSS Emergency Operations Center and the State of Alaska Emergency Operation Center (SEOC). Alaska's Health Emergency Response System has been activated since late January. The state has worked with federal, tribal, and state health care partners to ensure that strong systems were in place to limit or prevent the spread of COVID-19. The state had time to learn from other states' preparedness and learn about the COVID-19 virus and its science. The state had time to develop and implement the initial infrastructure to engage as many partners as possible for a comprehensive statewide response. This includes health care providers, tribal health organizations, local health entities, the vast network of public health centers and public health

nurses, local governments, school districts, businesses and employers, critical infrastructure workforce employers and Alaskans.

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COMMISSIONER CRUM reviewed the governor's response to COVID-19 on slide 3. He highlighted the governor's three priorities: to protect seniors and Alaska's most vulnerable populations, to protect rural Alaska and to provide resources to mitigate the economic impacts. He reported the number of COVID-19 cases on March 11, 2020, with 100,000 cases confirmed worldwide and 600 cases in the US. He acknowledged that he took into consideration that Alaska is isolated. He issued a public health memo to Governor Dunleavy, requesting his consideration of issuing a Public Health Emergency Disaster Declaration, which was issued. It read:

Because COVID-19 is a new disease in humans, no one has an existing immunity to this virus. It appears likely that transmission can occur before the onset of symptoms. As such, some people who are infected could inadvertently transmit the virus to others. COVID-19 can cause severe disease, including pneumonia and death. Older individuals and people with serious underlying health conditions (e.g. lung disease, heart disease, or diabetes) or immune disorders are at increased risk for severe illness. There have been no confirmed cases of infection with the novel coronavirus in Alaska. For these reasons, under AS 26.23.900(2)(E), I certify that an outbreak of COVID-19 has a high probability of occurring in the near future.

COMMISSIONER CRUM stated that on March 12, 2020, Alaska had its first confirmed COVID-19 case. The first case was not a community spread case. However, based on the experiences of other states, it was time to respond. He reported that the Alaska legislature acted quickly to pass Senate Bill 241 to extend the disaster declaration to November 15, 2020. He surmised that passage of Senate Bill 241 avoided worse outcomes in Alaska, such as increased number of cases, lack of testing capacity, lack of resources for labs and processing, the lack of ability to mobilize humans and lack of funding resources to support response efforts. Congress passed three important provisions while the Alaska legislature was working on that bill. On March 4, Congress passed an \$8 billion spending package.

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COMMISSIONER CRUM said on March 11, 2020, Congress passed the Families First Coronavirus Response Act, related to unemployment insurance benefits and increased Medicaid testing; and on March 29th, the Congress passed the CARES Act. The CARES ACT enhanced unemployment insurance (UI) benefits for non-traditional contract workers, assistance for individuals and allocation of federal aid to states. He said Alaska received \$1.25 billion to assist in establishing relief and response programs.

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COMMISSIONER CRUM discussed the Initial Health Mandates on slide 4. Under the governor's authority under Alaska Statutes (AS) 26.23, he issued health mandates to prevent and slow COVID-19. He directed attention to the list of mandates that occurred in a tight timeline. Mandates 1-12 were issued within a two-week period. As he received information the governor's team worked to decide on the best approach to address the new developments. One goal was to preserve healthcare availability. He noted that Alaska's acute care beds can care for less than two percent of its population. When horror stories were coming from New York, Alaska was in the middle of school spring break, which meant increased out-of-state travel.

He referred to Mandate 4, issued on March 17, 2020, related to international travel to hotspot countries identified by the US Center for Disease Controls (CDC). It required those international travelers to quarantine. He referred to the March 19, 2020, mandates 5 and 6 related to elective medical and oral health procedures that could be pushed forward. He referred to Mandate 7 issued on March 20, 2020, related to personal care services and gatherings in the Fairbanks North Star Borough and the Ketchikan Gateway Borough. Fairbanks was the first hotspot in Alaska. Health care professionals were beginning to understand that the COVID-19 was spread by droplets and close physical contact, so separating those receiving personal care services and avoiding personal contact was one aspect that the state could implement based on other states' responses.

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COMMISSIONER CRUM referred to Mandate 8, issued on March 20, 2020, related to public and private schools. At that time, a global shortage existed for personal protective equipment (PPE), including masks, gowns, and other medical protective gear. The administration was unsure what would protect the general public. Delaying school times and implementing video or distance

learning through the end of the school year incorporated the best safety measures.

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COMMISSIONER CRUM said the administration needed to buy time to put procedures and protocols in place. He offered his view that the health mandates saved over 10,000 lives. Although the COVID Act Now and University of Alaska Anchorage projected from 11,000 to 20,000 deaths in Alaska, the state currently has had 250 deaths.

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COMMISSIONER CRUM said Mandate 11, related to social distancing, was implemented based on models of other states and the federal government. This mandate closed non-essential or non-critical infrastructure businesses. He explained that the state used the guidelines and templates from the Cybersecurity and Infrastructure Administration (CISA), a federal agency that lists essential workers. The state considered Alaska's industries, such as mining, since this resource development industry is important to the state and regionally, including Northwest Alaska, Interior, and Southeast Alaska.

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COMMISSIONER CRUM referred to Mandate 12, issued on March 27, 2020, related to intrastate travel, limiting travel between communities. This mandate asked residents to limit travel to necessary travel. It did not tell people to stay at home, and instead encouraged families to go outside. The state waived its fees for the Alaska State Parks. He reported that many people did so and the state worried about clusters at trailheads.

He referred to Mandate 14, related to non-congregate sheltering orders. This language identifies the population to allow the state to receive Federal Emergency Management Agency (FEMA) reimbursement. He directed attention to Mandate 15, issued on April 15, 2020, related to healthcare providers' services. The administration held conversations with the Alaska State Hospital and Nursing Home Association (ASHNHA), hospital associations,

and representatives of medical professionals to put safety protocols in place to make sure that people had access to care.

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COMMISSIONER CRUM stated that on April 22, 2020, the governor issued Mandate 16, related to guidelines to reopen Alaska responsibly. This mandate established safe protocols for businesses that were specifically shut down. That mandate was rescinded by May 22, 2020. Currently, no mandate restriction exists for Alaska businesses.

He referred to Mandate 17, issued on April 23, 2020, a mandate that provided protective measures for independent commercial fishing vessels. The administration worked with commercial fishing communities throughout Alaska, including commercial harvesters, independent fishing harvesters, onshore and offshore fishing seafood harvesters in rural regions to develop these guidelines.

COMMISSIONER CRUM discussed Mandate 18, related to intrastate travel. He reported that some small rural communities completely shut down travel, restricting even police officers, correctional officers, and inmates released from prison from entering their communities. Residents were not allowed to leave to bring back critical or essential items. The administration wanted to make sure that property owners had access to these communities and ensure critical and essential travel could occur.

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COMMISSIONER CRUM advised the committee that health alerts provide guidelines. He referred to parking guidelines for churches. He explained that the governor had held weekly calls with religious and faith leaders who asked questions about safely gathering for large celebrations. Those questions led to guidelines that suggested parking safely and delivering Easter baskets safely.

COMMISSIONER CRUM reiterated that the vast majority of mandates were repealed by summer.

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COMMISSIONER CRUM reviewed the state response components on slide 5. He advised that current mandates have been moved into health orders. By June 2020, the administration had moved to mandatory testing for nonresident visitors to Alaska to salvage some tourism in the state and allow the hospitality industry to thrive.

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COMMISSIONER CRUM reviewed slide 5, the state response components tied to the March Alaska Disaster Declaration and Senate Bill 241. He explained that the state implemented waiver and suspension of statutes and regulations to expand telehealth opportunities, including behavioral health services. The Centers for Medicare and Medicaid Services (CMS) added flexibility for healthcare providers, but the state could not access them because of current regulations. These waivers allow that access. He indicated that the state wanted to build its health care workforce without encountering hurdles to licensing for qualified licensed medical professionals by developing rapid emergency licensure and reciprocity agreements.

COMMISSIONER CRUM said contracts take time because the state must adhere to the Request for Proposal (RFP) process. However, in the middle of a pandemic response, it is necessary to flatten out government and hire and procure quickly for items such as the purchase of PPE, testing supplies, hiring temporary employees for contact tracing and data entry. He worked to provide gowns and masks from China.

COMMISSIONER CRUM said the state entered into contracts for the distribution of supplies to make sure items were distributed statewide and to secure alternative care sites to use as field hospitals. Those sites have not been required, but these sites have been used as mass testing sites, for monoclonal infusion therapy treatments in Anchorage, and for mass vaccination clinics. The mass vaccination clinics in Anchorage were able to vaccinate 3,000 seniors in one weekend due to the flexibility in the disaster declaration. It was necessary to procure and hire health care professionals under contract to administer the vaccines. He discussed efforts to increase contact tracing, provide infrastructure. The department developed partnerships and collaborations at testing sites, working with health care providers, the University of Alaska, local governments, and tribal health organizations to build workforce to conduct contact tracing. The state worked to improve IT systems and networks to provide an efficient system for data delivery. He noted that the state is close to reaching its goal of 500 contract tracers.

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COMMISSIONER CRUM said the department worked with critical industries who asked how to protect their workforce. He stated that it is important to maintain its transient workforces,

including Alaska residents who had to rotate shifts on the North Slope. He noted that partnerships between state agencies, school districts, local health departments in areas such as local emergency operation centers to conduct outreach. He emphasized the efforts made on communications, including holding weekly press conferences and holding zoom echoes, which are open to the public. He noted those subject matter experts are available to answer questions.

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COMMISSIONER CRUM discussed the DHSS's preparations for the vaccine and the Alaska Vaccine Task Force on slide 6. He reported that the department received feedback from the public and the legislature on improving its systems to assist Alaskans in finding availability of appointments and scheduling them. He discussed the vaccine timeline. In May 2020, the department began developing its immunization program. In August 2020, the Alaska COVID-19 Vaccine Task Force was developed. In addition, a task force was co-lead by DHSS and the Alaska Native Tribal Health Consortium. On October 16, 2020, the DHSS submitted a draft vaccination plan to the CDC. This plan outlined the organizational approach, and distribution, enrollment, tracking, and public communication. ASHNHA and the Alaska Vaccine Task Force convened the Vaccine Allocation Advisory Committee, consisting of health care professionals to make recommendations on vaccine allocation.

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COMMISSIONER CRUM discussed slide 7, related to Governor Dunleavy's November 16, 2020, Disaster Declaration. He explained that by November 15, 2020, Senate Bill 241 expired. The state was awaiting federal approval of the COVID-19 vaccine while the state was seeing a surge in cases.

COMMISSIONER CRUM said he sent a public health memo to Governor Dunleavy, which read:

Unfortunately, the COVID-19 emergency has not abated and we are no longer anticipating an imminent threat but instead infections are occurring in Alaska and have recently increased exponentially. Thus, a new disaster declaration is necessary as an "outbreak of disease" is occurring under AS 26.23.900(2)(E). Despite the state's aggressive measures to contain and mitigate the effects of COVID-19, we continue to face escalating challenges with respect to COVID-19.

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COMMISSIONER CRUM reported that as of November 16, 2020, that of the 48 million COVID-19 confirmed cases worldwide, 9 million cases were in the US. Over 235,000 Americans had died, with 17,000 confirmed cases and 84 deaths were attributed to COVID-19 in Alaska.

COMMISSIONER CRUM stated that the mandates were revised into eight health orders were authorized with the issuance of the new Disaster Declaration. Health order [7] refers to online raffles and prize drawings, which allows nonprofits to do so online. He pointed out state agencies cannot increase fees while this declaration is in effect.

COMMISSIONER CRUM highlighted the health orders that carried over. He said health order 4 provides FEMA reimbursement eligibility for temporary sheltering. Health order 5 related to intrastate travel. At the time, Bethel had a bad COVID-19 outbreak in the Yukon Kuskokwim region (YK). Local communities asked for tools to help protect themselves. The department worked with the local communities to develop the protocol requiring testing prior to visiting the communities. Health order 6 related to international and interstate travel establishes an airport testing plan. He remarked that the CDC commended the state's proactive approach to testing. Health order 8 relates to the commercial fishing industry protective measures. This guidance on mitigation measures for the commercial fishing industry was combined into a single document to make it easier for the public to access.

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COMMISSIONER CRUM referred to the December 15, 2020, Disaster Declaration. He said he sent another public health memo to the governor regarding the status of COVID-19. It read:

[T]he COVID-19 emergency has become more severe and infections are occurring in Alaska at a higher rate than ever before during this pandemic. Thus, a new disaster declaration is necessary as an "outbreak of disease" is occurring under AS 26.23.900(2)(E).

COMMISSIONER CRUM explained that on December 11, 2020, an Emergency Use Authorization (EUA) approval for Pfizer was issued followed by EUA approval on December 18, 2020, for the Moderna vaccine. He reiterated that the dispensing clinics that have been used successfully throughout Alaska would not have been possible without the quick ability to procure resources and

staff. He said the December 15, 2020, Disaster Declaration included the same health orders.

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COMMISSIONER CRUM reviewed the January 15, 2021, Disaster Declaration on slide 9. The public health memo to Governor Dunleavy read:

Vaccines are now available to Alaskans and continued facilitation of the emergency response to this public health emergency, permitted under AS 26.23.020, is critical for the successful administration of a vaccine statewide. Through the Division of Public Health and cooperating providers statewide, over 25,000 vaccination doses have been administered in Alaska, prioritizing front-line health care workers, individuals in congregate settings, and elder Alaskans. Although Alaska is administering vaccinations more quickly than most other states, no one in the state has yet completed the two-dose series, and administration is still happening more slowly than the CDC had expected.

He highlighted that AS 26.23.020(g)(10) allows the governor to allocate or redistribute food, water, fuel, clothing, medicine, or supplies. This includes therapeutics, including monoclonal antibodies, he said. It also allows the state to administer vaccines to seniors ages 65 years and older who tested positive for COVID-19. He said this has reduced hospitalizations. This also allows the state to develop eligibility criteria and tiers for the COVID-19 vaccines.

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COMMISSIONER CRUM said he agreed with Dr. Kulldorff about the importance of protecting Alaska's seniors and elders. He related the state's efforts taken to provide multi-day testing, visitor testing at congregate settings for seniors, vaccinating seniors and staff at skilled nursing facilities and Pioneer Homes. This goes back to Governor Dunleavy's number one COVID-19 priority, to protect seniors and the vulnerable population. Currently, the department is working to ensure that the home-bound developmentally disabled and their caregivers receive vaccinations. He reported that Alaska is the number one per capita state with 11.3 percent of its citizens vaccinated.

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COMMISSIONER CRUM also reported that the state has been averaging 4,600 shots per day. Those being vaccinated are doing so voluntarily. It is an individual's right to protect themselves. No staff or individuals are mandated to receive the vaccines. Alaska is the second most tested state per capita, with the second-fewest deaths per state and the number one lowest case fatality rate. He related that the state has capacity in its hospitals and these hospitals have maintained financial health, although not 100 percent pre-COVID-19 status. The state has worked with hospitals to provide tools and support.

COMMISSIONER CRUM reported that Alaska received allocation figures for February 2021: 21,000 Moderna and 19,500 Pfizer vaccines; and 10,700 Moderna and 7,800 Moderna for Indian Health Service (IHS) for a total of 59,600 total for Alaska.

[2:58:30 PM](#)

CHAIR REINBOLD asked where the adverse reactions are posted on the DHSS's website.

COMMISSIONER CRUM directed her to the Vaccine Adverse Experience Response cite, which is monitored by the CDC. In further response, he stated that this is available to the public. Health care providers are encouraged to put in any reaction, even if the person stood up too quickly.

CHAIR REINBOLD asked him to send a link to the specific cite.

[2:59:13 PM](#)

CHAIR REINBOLD asked if he took an oath to uphold the constitution. She asked if he understood it is the supreme law of the land.

COMMISSIONER CRUM answered yes. He said he is an American.

[2:59:20 PM](#)

CHAIR REINBOLD explained that she gave the commissioner tremendous leeway to present the administration's COVID-19 response. She expressed disappointment that the commissioner did not answer the questions she submitted to him. However, the committee would hold future meetings on COVID-19. The committee process relies on public input and committee member participation to glean the complete picture on issues such as COVID-19.

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CHAIR REINBOLD agreed that while the commissioner needs to report actions the governor and administration have taken to address the COVID-19 pandemic, due to time constraints, it was not possible to hear other invited testimony at this hearing. She suggested that the department has narrowly focused on the pandemic without noticing other impacts of COVID-19. These impacts include reports that one in four students have struggled, elderly residents have been isolated from family and friends, many businesses have closed, many people have become unemployed, and parts of the economy are in shambles. She also expressed concern with the overall lack of screening.

CHAIR REINBOLD said future hearings would discuss what she views as significant flaws to the department's original models, especially since the department reported those models saved many lives.

COMMISSIONER CRUM interjected that he previously testified that the models used were flawed.

CHAIR REINBOLD reiterated that the committee would hold discussions on COVID-19, including the trials and the long-term effects of the vaccinations.

[3:01:17 PM](#)

CHAIR REINBOLD asked how many people the department hired to conduct contact tracing.

COMMISSIONER CRUM answered that the department has about 489 contact tracers.

CHAIR REINBOLD indicated contract tracing is a topic for future discussions. She said the legislature must provide for privacy per Article 1, Section 22 of the Constitution of the State of Alaska. If the executive branch is not doing so, the legislature needs to address it. She stressed the need to strive for a balance between constitutional rights and to never forget the founding fathers fought and died for our freedom. She offered her belief that freedom and rights have been under attack during these last 10 months. Further, the public needs to be fully informed about the vaccinations, including if safety trials were skipped and that people have the right to say no to vaccinations.

[3:03:01 PM](#)

COMMISSIONER CRUM interjected that he and Governor Dunleavy have been adamant that the State of Alaska does not mandate or

require vaccines for employees, staff, or seniors. He emphasized that each person will be able to make a personal choice and decide whether to get vaccinated.

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SENATOR REINBOLD said people are concerned about how the mandates affect their rights. She reported that some of the earlier animal trials were alarming. The state needs to consider the long-term effects of vaccinations. She asked if companies that developed the vaccinations could be held liable for all the adverse reactions.

COMMISSIONER CRUM deferred to the CDC and the Congressional Delegation. In further response, he reported that the state's vaccination rate is 4,600 per day.

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CHAIR REINBOLD argued that this topic is part of public health. She reiterated her overall concern of the long-term effects of COVID-19 on public health and these issues need to be addressed at subsequent hearings.

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There being no further business to come before the committee, Chair Reinbold adjourned the Senate Judiciary Standing Committee meeting at 3:05 p.m.